

2560; McCain No. 2583; Lieberman-Sessions No. 2616, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I would like to amend my earlier unanimous consent request: that the Inouye amendment No. 2623, which I read seriatim in the list, have a side-by-side of Senator McCain No. 2560; and then Senator McCain amendment No. 2560; McCain No. 2583; Lieberman-Sessions No. 2616, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS-CONSENT AGREE- MENT—EXECUTIVE CALENDAR

Mr. DURBIN. As in executive session, I ask unanimous consent that on Tuesday, October 6, immediately following any leader remarks, the Senate proceed to executive session to consider Calendar No. 186, the nomination of Thomas Perez to be Assistant Attorney General, and that once the nomination is reported, the cloture motion which will be at the desk be stated; further, that the reading of the names then be waived and the mandatory quorum be waived; that immediately thereafter, the Senate debate the nomination until 12:15 p.m., with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that at 12:15 p.m., the Senate proceed to vote on the motion to invoke cloture on the nomination; that if cloture is invoked on the nomination, then all postcloture time be yielded back and the Senate then vote immediately on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; that no further motions be in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session; provided further that if cloture is not invoked on the nomination, then a motion to reconsider the vote by which cloture was not invoked on the nomination be considered entered and the Senate then resume legislative session and recess until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. DURBIN. I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 463, 465, 466, and 467; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order; and that any statements related to the nominations be printed in the RECORD; provided further that the President be immediately notified of the Senate's action and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF HOMELAND SECURITY

Richard Serino, of Massachusetts, to be Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security.

#### FEDERAL MEDIATION AND CONCILIATION SERVICE

George H. Cohen, of Virginia, to be Federal Mediation and Conciliation Director.

#### DEPARTMENT OF EDUCATION

Alexa E. Posny, of Kansas, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

Brenda Dann-Messier, of Rhode Island, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

#### SAFE PRISONS COMMUNICATIONS ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 166, S. 251.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

S. 251

A bill (S. 251) to amend the Communications Act of 1934 to permit targeted interference with mobile radio services within facilities.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Prisons Communications Act of 2009".

#### SEC. 2. INTERFERENCE PERMITTED WITH CORRECTIONAL FACILITIES.

Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 333 the following:

#### "SEC. 333A. JAMMING UNAUTHORIZED WIRELESS DEVICES IN CORRECTIONAL FACILITIES.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, after the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission may authorize the supervisory authority of a correctional facility to operate a jamming system within the correctional facility to prevent, jam, or otherwise interfere with unauthorized wireless communications within the facility by individuals held in the facility. In order to obtain such authority, a supervisory authority shall file a notice of intent under subsection (b), file a petition for such authority under subsection (c), and comply with the requirements of this section and the regulations under this section.

#### "(b) NOTICE OF INTENT PROCEDURE.—

"(1) FILING WITH THE COMMISSION.—Not less than 30 days before filing a petition for authority to operate a jamming system under subsection (c), a correctional facility supervisory authority shall file with the Commission a notice of intent to seek such authority. The notice shall identify the correctional facility to which the authority will relate and be in such form, and contain such information, as the Commission may require.

"(2) NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.—Within 10 days after receiving a notice under paragraph (1), the Commission shall—

"(A) notify in writing each public safety agency and each commercial mobile service provider serving the area in which the correctional facility to which the notice of intent relates is located; and

"(B) provide the name and address of each such agency and provider so notified by the Commission to the supervisory authority that filed the notice of intent.

"(3) CONSULTATION AND ACCESS.—Before filing a petition for jamming authority under this section, a supervisory authority—

"(A) shall consult with the public safety agencies and commercial mobile service providers identified by the Commission under paragraph (2)(B), if such consultation is requested, to determine—

"(i) the types of equipment used by those agencies and providers in the area in which the correctional facility is located;

"(ii) the locations of towers and facilities containing wireless transmission equipment belonging to those agencies and providers in that area, to the extent those agencies and providers voluntarily provide such information; and

"(iii) the frequencies used by those agencies and providers in that area;

"(B) shall provide access, upon request and in the discretion of the supervisory authority, by those agencies and providers to the outer perimeter of the correctional facility for the purpose of taking measurements and conducting testing to determine signal strength and the potential for interference with their transmissions or service; and

"(C) may solicit recommendations from those agencies and providers on the selection, installation, and configuration of a jamming system and jamming devices.

"(4) EXTENSION OF CONSULTATION PERIOD.—Upon good cause shown, the Commission may require a supervisory authority that has filed a notice of intent under this subsection to provide an additional period of up to 15 days for the activities described in paragraph (3) before submitting a petition for jamming authority to the Commission.

#### "(c) PETITION PROCEDURE.—

"(1) IN GENERAL.—After completing the consultation process provided under subsection (b)(3) (if such consultation was requested), a supervisory authority may file a petition with the Commission requesting authority to install and operate a jamming system within a correctional facility under the supervisory authority's jurisdiction.

"(2) FEE.—The Commission may not charge a filing fee for a petition under this section.

"(3) NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.—

"(A) PUBLIC SAFETY AGENCIES.—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each public safety agency serving the area that includes the correctional facility to which the petition applies.

"(B) CMS PROVIDERS.—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each commercial mobile service provider serving the area that includes the correctional facility to which the petition applies.

"(C) CONTENT OF NOTICE.—The notice shall include a detailed description of the jamming system and a list of all jamming devices, including make and model, that the supervisory authority proposes to use at the correctional facility.

#### "(4) DISPOSITION OF PETITION.—

"(A) In general.—After the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission shall act on a petition under this subsection within 60 days after the date on which the Commission receives a complete petition.

"(B) DETERMINATION CONSIDERATIONS.—In determining whether to grant requested jamming authority, the Commission—